IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY**

**and**
**THE HON'BLE MR JUSTICE C.V.RAMULU**

**WRIT PETITION NO : 6527 of 2005**

Between:

M/s. Zuari Cement Ltd., Regd. Office at Jai Kisan Bhavan,
Zuari Nagar, Goa, Factory is at Krishna Nagar, Yerraguntla, Kadapa District Rep. by its Chief Finance Officer, Mr. Suresh Krishnan.

**..... PETITIONER**

AND

1 Government of Andhra Pradesh, Rep. by its Secretary,
Revenue (CT) Department, A.P. Secretariat, Hyderabad.
2 The Assistant Commissioner (CT) LTU, Chittoor Division,

Chittooor.
3 The Executive Officer, Tirumala Tirupati Devastanams,
Tirupati, Chittoor District.
4 The Superintending Engineer-I Tirumala Tirupati Devastanams,
Tirupati, Chittoor District.
5 The Executive Engineer-VII, Tirumala Tirupati Devastanams,
Tirupati, Chittoor District.
6 The Deputy Executive Engineer, DPW Stores (Civil) Tirumala

Tirupati Devastanams,
Tirupati, Chittoor District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to

issue a Writ of Mandamus or any other appropriate Writ or order declaring the action of the 5th Respondent in rejecting the claim of the Petitioner for reimbursement of Sales tax component of Rs. 8,21,321/- due for the period from 6-2-2000 to 30-6-2000 by letter dt. 28-12-2004 in R.O.C.No. 30/D4/EE.VII/04 as arbitrary, illegal and contrary to the promise made by the 6th Respondent earlier in the communication dt. 31-1-2003 and the communication dt. 28-12-2004 of the 5th respondent is also in violation of principles of natural justice and set aside the same declaring that the petitioner is entitled for reimbursement of Sales Tax component

**Counsel for the Petitioner: MR.SHAIK JEELANI BASHA**

**Counsel for the Respondent No.1:** G.P for Commercial Taxes

**Counsel for the Respondent No. 2**: Mr.K.Raji Reddy, Special Standing

Counsel for COMMERCIAL TAX

**Counsel for the Respondent Nos 3 to 6:** Mr.Harnath Gupta, SC for TTD

The Court at the stage of admission made the following order:

**ORAL ORDER**: (Per Sri BRSR.J)

The proceedings dated 28.12.2004 on the file of the Executive Engineer-VII, Tirumala Tirupathi Devasthanam (TTD) Tirupathi rejecting the request of the petitioner to reimburse the sales tax component of Rs.8,21,321/- for the period from 6.2.2000 to 30.6.2000 is impugned in this writ petition. We do not find any merit whatsoever in this writ petition requiring our interference in exercise of our jurisdiction under Article 226 of the Constitution of India.

The learned counsel for the petitioner relied upon G.O.Ms.No.162 dated 3.4.2002 whereunder the Government in exercise of the power conferred by sub-section (1) of Section 9 of the Andhra Pradesh General Sales Tax Act, 1957 granted exemption from the payment of Tax under the said Act on the sales made by the local dealers to TTD, Tirupathi prior to 6.2.2000 provided the selling dealers did not charge tax from the TTD. We fail to appreciate as to how the petitioner can claim the benefit of the said G.O since the tax in respect of which it is claiming benefit is for the period from 6.2.2000 to 30.6.2000, which is not covered by the exemption.

Learned counsel for the petitioner however made an attempt to contend that under the terms and conditions of the contract entered into by the petitioner with the TTD, the petitioner is entitled for the benefit of reimbursement of sales tax component even for the period from 6.2.2000 to 30.6.2000. We cannot issue any writ as prayed for enforcing the terms of contract mutually agreed by and between the parties.

This order shall not preclude the petitioner from availing the remedies, if any, available to it in law in which event the matter shall be considered on its own merits uninfluenced by the dismissal of this writ petition.

The writ petition shall accordingly stand dismissed. No costs.

(B.SUDERSHAN REDDY,J)

(C.V.RAMULU,J)

dated 21..04..2005

msv.

To

1 The Secretary,
Revenue (CT) Department, Government of Andhra Pradesh,

Secretariat, Hyderabad.
2 The Assistant Commissioner (CT) LTU, Chittoor Division,

Chittooor.
3 The Executive Officer, Tirumala Tirupati Devastanams,
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Tirupati, Chittoor District.

7 2 CCs to GP for Commercial Taxes, High Court of A.P. Hyd (OUT)

8 2 CD copies.